

**Agreement Between the Government of the United Mexican States and the Government
of the United States of America on Customs Cooperation Regarding Claims of Origin
Under Cumulation Provisions of Certain Free Trade Agreements**

The Government of the UNITED MEXICAN STATES (hereafter "Mexico") and

The Government of the UNITED STATES OF AMERICA (hereafter "the United States"),

hereafter referred to jointly as "the Parties,"

RECOGNIZING the Parties' desire to facilitate the entry into force of the provisions of their respective free trade agreements, existing or to be concluded, with the Dominican Republic and the Republics of Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua, authorizing cumulation of materials from Mexico and the United States for the purpose of determining whether certain apparel goods are originating goods under those agreements;

DESIRING to increase the Parties' cooperation in enforcing their mutual rights and obligations to verify the origin of goods claimed to be originating under their respective free trade agreements; and

REAFFIRMING their rights and obligations under the North American Free Trade Agreement and the Agreement Establishing the World Trade Organization,

HAVE AGREED AS FOLLOWS:

Article 1
OBJECTIVES

The objectives of this Agreement are:

- (a) to facilitate the entry into force of the cumulation provisions of Appendix 4.1-B of the Dominican Republic – Central America – United States Free Trade Agreement by providing for verifications substantially similar to those set forth in Article 3.24 of that agreement for materials produced in the territory of Mexico used to produce an apparel good claimed to be originating under the cumulation provisions of that agreement; and
- (b) to facilitate the entry into force of the cumulation provisions of the Mexico – Costa Rica Free Trade Agreement, the Mexico – Nicaragua Free Trade Agreement, and the Mexico – El Salvador – Guatemala – Honduras Free Trade Agreement, as amended, and of any future trade agreement between Mexico and the Dominican Republic, by providing for verifications for materials produced in the territory of the United States used to produce an apparel good claimed to be originating under the cumulation provisions of those agreements.

Article 2
CUSTOMS COOPERATION

The customs authorities of the Parties shall cooperate for purposes of:

- (a) enforcing or assisting in the enforcement of their respective laws, regulations, and procedures affecting trade in textile or apparel goods;
- (b) ensuring the accuracy of claims of origin for textile or apparel goods; and
- (c) deterring circumvention of laws, regulations, and procedures of either Party or international agreements affecting trade in textile or apparel goods.

Article 3
REQUESTS TO CONDUCT VERIFICATIONS

1. On the written request of the importing Party, the exporting Party shall conduct a verification for purposes of enabling the importing Party to determine:
 - (a) that a claim of origin for a textile or apparel good is accurate, or
 - (b) that the exporter or producer is complying with applicable customs laws, regulations, and procedures regarding trade in textile or apparel goods, including:
 - (i) laws, regulations, and procedures that the exporting Party adopts and maintains pursuant to this Agreement; and
 - (ii) laws, regulations, and procedures of the importing Party and the exporting Party implementing other international agreements regarding trade in textile or apparel goods.
2. A request under paragraph 1 shall include specific information regarding the reason the importing Party is requesting the verification and the determination the importing Party is seeking to make.
3. The exporting Party shall conduct a verification under paragraph 1(a), regardless of whether an importer claims preferential tariff treatment for the textile or apparel good for which a claim of origin has been made.

Article 4
PARTICIPATION IN VERIFICATIONS BY IMPORTING PARTY

1. The importing Party, through its competent authority, may assist in a verification conducted under Article 3.1, or, at the request of the exporting Party, undertake such a verification, including by conducting, along with the competent authority of the exporting Party, visits in the territory of the exporting Party to the premises of an exporter, producer, or any other enterprise involved in the movement of textile or

apparel goods from the territory of the exporting Party to the territory of the importing Party.

2. The competent authority of the importing Party shall provide a written request to the competent authority of the exporting Party 20 days before the proposed date of a visit under paragraph 1. The request shall identify the competent authority making the request, the names and titles of the authorized personnel that will conduct or assist in the visit, the reason for the visit, including a description of the type of goods that are the subject of the verification, and the proposed dates of the visit.
3. The competent authority of the exporting Party shall respond within 10 days of receipt of the request, and shall indicate the date on which the exporting Party will conduct a verification, or the date on which authorized personnel of the importing Party may perform the visit. On the date of the visit, the Party conducting the visit shall seek, in accordance with the exporting Party's laws, regulations, and procedures, permission from the enterprise to conduct the visit. If consent is not provided, the importing Party may deny preferential tariff treatment to imported textile or apparel goods produced from the type of goods of the enterprise that would have been the subject of the verification, except that the importing Party may not deny preferential tariff treatment to such goods based solely on a postponement of the visit, if there is adequate reason for such postponement.
4. Authorized personnel of the importing and exporting Parties shall conduct the visit in accordance with the laws, regulations, and procedures of the exporting Party.
5. Upon completion of a verification conducted by the importing Party under paragraph 1, the importing Party shall provide the exporting Party with an oral summary of the results of the visit and provide it with a written report of the results of the visit within approximately 45 days of the visit. The written report shall include:
 - (a) the name of the enterprise visited;
 - (b) particulars of the shipments that were checked;
 - (c) observations made at the enterprise relating to circumvention; and
 - (d) an assessment of whether the enterprise's production records and other documents support the claims of origin for:
 - (i) a textile or apparel good subject to a verification conducted under Article 3.1(a); or
 - (ii) in the case of a verification conducted under Article 3.1(b), any textile or apparel good exported or produced by the enterprise.

Article 5
CONFIDENTIALITY

1. On request of a Party conducting a verification under Article 3.1, the other Party shall provide, consistent with its laws, regulations, and procedures, production, trade, and transit documents and other information necessary to conduct the verification.
2. Where the providing Party designates information provided under paragraph 1 as confidential, the other Party shall maintain the confidentiality of the information. The Party providing the information may require written assurances from the other Party that the information will be held in confidence, will be used only for the purposes specified in the other Party's request for information, and will not be disclosed without the Party's specific permission.
3. A Party may decline to provide information requested by another Party where that Party has failed to act in conformity with assurances provided under paragraph 2.
4. Each Party shall adopt or maintain procedures in which confidential information, including information the disclosure of which could prejudice the competitive position of the person providing the information, submitted in accordance with the administration of the Party's customs laws, shall be protected from unauthorized disclosure.
5. Notwithstanding the provisions of paragraphs 2 through 4, a Party, in accordance with its laws and regulations, may publish the name of an enterprise that:
 - (a) the Party has determined to be engaged in intentional circumvention of laws, regulations, and procedures of either Party or international agreements, affecting trade in textile or apparel goods; or
 - (b) has failed to demonstrate that it produces, or is capable of producing, textile or apparel goods.

Article 6
ENFORCEMENT

1. During a verification conducted under Article 3.1, if there is insufficient information to support a claim of origin, the importing Party may take appropriate action, which may include suspending the application of preferential tariff treatment to:
 - (a) in the case of a verification conducted under Article 3.1(a), the textile or apparel good for which a claim of origin has been made; and
 - (b) in the case of a verification conducted under Article 3.1(b), any textile or apparel good exported or produced by the enterprise subject to that verification for which a claim of origin has been made.
2. On completion of a verification conducted under Article 3.1, if there is insufficient information to support a claim of origin, the importing Party may take appropriate

action, which may include denying the application of preferential tariff treatment to any textile or apparel good described in subparagraphs 1(a) and (b).

3. During or on completion of a verification conducted under Article 3.1, if the importing Party discovers that an enterprise has provided incorrect information to support a claim of origin, the importing Party may take appropriate action, which may include denying the application of preferential tariff treatment to any textile or apparel good described in subparagraphs 1(a) and (b).
4. During a verification conducted under Article 3.1, if there is insufficient information to determine the country of origin, the importing Party may take appropriate action, which may include detention of any imported apparel good produced from textile or apparel goods exported or produced by the enterprise subject to the verification, but for no longer than the period permitted under its law.
5. On completion of a verification conducted under Article 3.1, if there is insufficient information to determine the country of origin, the importing Party may take appropriate action, which may include denying entry to any imported apparel good produced from textile or apparel goods exported or produced by the enterprise subject to the verification.
6. During or on completion of a verification conducted under Article 3.1, if the importing Party discovers that an enterprise has provided incorrect information as to the country of origin, the importing Party may take appropriate action, which may include denying entry to any imported apparel good produced from textile or apparel goods exported or produced by the enterprise subject to the verification.
7. The importing Party may continue to take appropriate action under any provision of this Article only until it receives information sufficient to enable it to make the determination in Article 3.1(a) or (b), as the case may be, but in any event for no longer than the period permitted under its law.
8. The importing Party may deny preferential tariff treatment or entry under this Article only after providing a written determination to the importer of the reason for the denial.

Article 7

WRITTEN REPORT AFTER VERIFICATION

When, in accordance with Article 4.1, an exporting Party conducts a verification under Article 3.1, it shall provide the importing Party a written report on the results of the verification not later than 45 days after completion of the verification. The report shall include all documents and facts supporting any conclusion that the exporting Party reaches, including those described in Article 4.5. After receiving the report, the importing Party shall notify the exporting Party of any action it will take under Articles 6.2, 6.3, 6.5, or 6.6, based on the information provided in the report.

Article 8
CONSULTATIONS AND TECHNICAL COOPERATION

1. On the written request of a Party, the Parties shall enter into consultations to resolve any technical or interpretive difficulties that may arise, or to discuss ways to improve customs cooperation, regarding the application of this Agreement. Unless the Parties otherwise agree, consultations shall begin within 30 days after delivery of the request, and conclude within 90 days after delivery.
2. A Party may request technical or other assistance from the other Party in implementing this Article. The Party receiving such a request shall make every effort to respond favorably and promptly to it.

Article 9
TRANSPARENCY

Not later than five days after the date of entry into force of this Agreement, each Party shall designate a contact point to facilitate communication between the Parties on any matter relating to this Agreement.

Article 10
DEFINITIONS

For purposes of this Agreement:

claim of origin means a claim that a textile or apparel good is an originating good or a product of a Party for purposes of applying the cumulation provisions of a free trade agreement enumerated in Article 1;

exporting Party means the Party from whose territory a textile or apparel good used in the production of an apparel good claimed to be an originating good under the cumulation provisions of a free trade agreement enumerated in Article 1 is exported;

importing Party means the Party into whose territory an apparel good claimed to be an originating good under the cumulation provisions of a free trade agreement enumerated in Article 1 is imported; and

textile or apparel good means a good listed in the Annex to the World Trade Organization Agreement on Textiles and Clothing.

Article 11
FINAL PROVISIONS

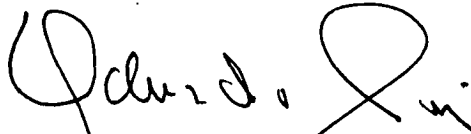
1. Either Party may withdraw from this Agreement by providing written notice to the other Party. A withdrawal shall take effect six months after a Party provides such written notice, unless the Parties agree on a different period.

2. The Parties may agree on any modification of or addition to this Agreement. When so agreed and approved in accordance with the applicable legal procedures of each Party, such modification or addition shall constitute an integral part of this Agreement.
3. This Agreement shall enter into force on the 30th day after the date on which the Government of the United States and the Government of Mexico exchange diplomatic notes informing each other that their respective legal procedures necessary for the entry into force of the Agreement have been completed.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

DONE in duplicate, in Davos, Switzerland, in the Spanish and English languages, both texts being equally authentic, on this 26th day of January, 2007.

FOR THE GOVERNMENT OF THE UNITED MEXICAN STATES:



FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

